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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/341,109	07/17/2001	Alfred Eckert	AP8899	4753
52203	7590	11/02/2005	EXAMINER	
CONTINENTAL TEVES, INC. ONE CONTINENTAL DRIVE AUBURN HILLS, MI 48326-1581			LOUIS JACQUES, JACQUES H	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/341,109	Applicant(s) ECKERT ET AL.	
	Examiner Jacques H. Louis-Jacques	Art Unit 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 138-274 is/are pending in the application.
- 4a) Of the above claim(s) 180-274 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 138-179 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 180-274 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 27, 2005; however, no particular reason is provided.

2. Applicant's election with traverse of Species I in the reply filed on July 27, 2005 is acknowledged. Applicant failed to provided any reason for the traversal is on the ground(s) that It appears from the election, however, that Applicant intended the election to be "without traverse", since no reason is given.

In any event, the requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 156-167 and 168-179 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 156 and 168, the limitation "the brake pressure" lacks clear antecedent basis. It is not clear which "brake pressure" the claims refer to.

In claims 156 and 168, it is not whether the "signal" characterizing the brake pressure is the same as the "first signal" being outputted.

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There is not construction relationship between the “signal” or the “brake pressure” and the remaining of the claim.

In claim 156, the step “outputting a first signal that corresponds to torque as a function of braking torque and or drive torque....” is not clear. It is not clear what “torque” is being referred from the recitation “corresponds to torque”.

A proper examination of the above claims is not appropriate as this time.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 138 and 147 are rejected under 35 U.S.C. 102(e) as being anticipated by Fritz [6,098,007].

Fritz discloses a control arrangement for longitudinal dynamics of a motor vehicle as to control or regulate the motor vehicle. According to Fritz, an absolute speed of the motor vehicle as well as additional motor vehicle state variables are determined and used for simultaneously determining several intermediate acceleration values for the motor vehicle. See figure 5. In addition, Fritz discloses determining a nominal longitudinal

acceleration based on the determined intermediate acceleration values and controlling the motor vehicle actuators based on the determined nominal longitudinal acceleration. See abstract and figure 1, columns 3-4.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 139-146 and 148-155 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fritz [6,098,007] in view of Hattori et al [5,532,929].

Fritz does not particularly disclose all the conditions of the acceleration values and the cruise control adjustment. Hattori et al, on the other hand, discloses an apparatus (and method) for controlling a vehicle based on accelerations, wherein a nominal longitudinal acceleration is determined by selecting the smallest value from a plurality intermediate acceleration values. The nominal longitudinal acceleration, according to Hattori et al, is determined by forming a weighted average of the intermediate longitudinal acceleration values, wherein the weighting of the acceleration values is changed based on the determined motor vehicle state variables and the temporal changes of the weightings are smoothed out by means of predetermined time functions. See, for example, figures 3 and 4, 46. According to Hattori et al, at least one intermediate acceleration value is generated based on the pedal positions (see items 10 and 11). The acceleration value, according to

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Hattori et al, is generated based on a cruise control adjustment or by a motor vehicle follower control. See figures 24, column 2. The sensors and/or acceleration controllers are monitored by a monitoring computer, and warning signals are outputted if a malfunction is detected. See figure 2, 12, columns 7-8. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the control arrangement of Fritz by incorporating the features from the apparatus (and method) of Hattori et al because such modification prevent the acceleration of the vehicle from abruptly changing, thus ensuring a smooth control of the motor vehicle.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,159,555	Wada	Oct. 1992
5,732,369	Hirano	Mar. 1998
5,765,118	Fukatani	Jun. 1998
5,774,821	Eckert	Jun. 1998
6,526,334	Latarnik et al	Feb. 2003

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H. Louis-Jacques whose telephone number is 571-272-6962. The examiner can normally be reached on M-Th 5:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacques H Louis-Jacques
Primary Examiner
Art Unit 3661

/jlj
10/27/2005

Jacques H. Louis-Jacques
JACQUES H. LOUIS-JACQUES
PRIMARY EXAMINER